

REMARKS/ARGUMENTS

Claims 1-24 and 26-57 are pending. Claims 47-57 are newly added claims. Claims 4, 15 and 24 have been currently amended. Claims 1, 5, 12, 16, 21, and 32-33 are independent claims. Support for the amendment may be found throughout the patent application.

Claim Rejections – 35 U.S.C. § 103

Claims 1-24, 26-41 and 45-46 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cannon et al. (“Cannon”, U.S. Patent No. 6,104,582) in view of Pinder (“Pinder”, U.S. Patent No. 6,112,074). Claims 42-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cannon in view of Pinder further in view of Miche (“Miche”, U.S. Patent No. 5,742,235). Applicant respectfully traverses these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. (emphasis added) *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Independent Claims 1, 5, 12, 16 and 32 each recite an element of “the database including an indication of susceptibility of the device to a weather characteristic” (emphasis added). In rejecting these claims, the Patent Office alleged that FIGS. 1 and 4; col. 5, lines 8-19 and col. 6, lines 4-17 and lines 45-62 of Cannon teach **data store[d] on the hard drive (400) as storing the weather characteristic as to provide protection against damage and destruction by severe weather** (emphasis original) (Office Action, page 24, lines 7-9). However, this is *not* the present invention. First, Cannon only

teaches “data stored on the hard disk drive” (col. 6, lines 47-48), *not* a database. In addition, even if the Patent Office’s allegation were true, Cannon only taught a database including a weather characteristic, *not* a database including an indication of susceptibility of devices to a weather characteristic, since a weather characteristic is different from an indication of susceptibility of the device to a weather characteristic. The difference may be illustrated, for example, by paragraph [0026] at page 8 of Specification as shown below:

For example, it may be determined that a thunderstorm is approaching and therefore has a weather characteristic of lightning, high winds and/or hail. A determination is then made of at least one device of a plurality of devices which is susceptible to determined characteristic 306. In the instance of lightening, for example, a modem may be determined as susceptible to both lightening strikes of telephone lines and power lines, and therefore may be more susceptible to lightening than a game console connected through a power system of a receiver. Susceptibility of devices may be stored in a database which is accessible by the system of the present invention. The susceptibility of devices may be stored in the database and include such information as to which weather characteristics the devices are susceptible, such as based on connection, location, and the like, and be arranged in a hierarchical format based on these characteristics for efficient searching (emphasis added).

In other words, even if the Patent Office’s allegation were true, Cannon only taught a database including a weather characteristic (e.g., a database including lightning, high winds, hail, etc.), *not* a database including an indication of susceptibility of devices to a weather characteristic (e.g., a database including an indication of susceptibility of a modem to lightening, etc.).

Moreover, it is advantageous to take different actions against a weather characteristic for different devices depending upon their respective susceptibility to the weather characteristic since “through use of the present invention, devices may be protected from these harmful characteristics” (Specification, page 6, paragraph [0021]).

This is further illustrated, for example, by paragraph [0023] at page 7 of Specification as shown below:

Due to the nature of the electronic devices, different electronic devices may have different susceptibilities to weather characteristics. For example, a modem 216 may be susceptible to power fluctuations through an electronic connection as well as to exposure through a telephone network 224, whereas, a game console 220, connected through a receiver 214, may be protected due to the circuitry of the receiver 214 from a power surge, and is not susceptible to telephone line surges, such as due to a lightning strike that may disable a modem 216 (emphasis added).

Therefore, Applicant respectfully submits that Cannon fails to teach, suggest, or disclose “the database including an indication of susceptibility of the device to a weather characteristic” as recited in Claims 1, 5, 12, 16 and 32 and, as a result, Claims 1, 5, 12, 16 and 32 should be allowed.

Claims 2-4, 6-11, 45 and 47-57 depend from Claim 1 and are therefore allowable due to their dependence. Claims 13-15, 17-20 and 46 depend from Claim 12 and are therefore allowable due to their dependence.

Independent Claim 21 recites “querying a database of devices, the database including an indication of susceptibility of the plurality of devices to the at least one weather characteristic” (emphasis added). For the similar rationale as applied to the foregoing Claims 1, 5, 12, 16 and 32, Claim 21 should be allowed.

Claims 22-24, 26-31 and 42-44 depend from Claim 21 and are therefore allowable due to their dependence.

Independent Claim 33 recites “querying a database of devices, the database including an indication of susceptibility of the at least one electronic devices to the at least one weather characteristic” (emphasis added). For the similar rationale as applied to the foregoing Claims 1, 5, 12, 16 and 32, Claim 33 should be allowed.

Claims 34-41 depend from Claim 33 and are therefore allowable due to their dependence.

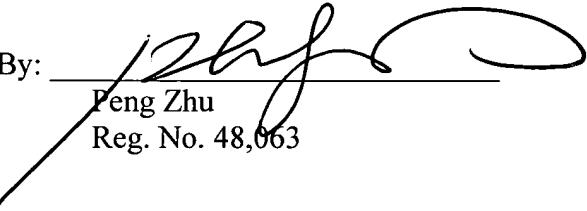
CONCLUSION

In light of the foregoing arguments and amendments, a Notice of Allowance is earnestly solicited.

Respectfully submitted,

GATEWAY, INC.,

Dated: September 17, 2004

By: 

Peng Zhu
Reg. No. 48,063

SUITER • WEST PC LLO
14301 FNB Parkway, Suite 220
Omaha, NE 68154
(402) 496-0300 telephone
(402) 496-0333 facsimile